Group II: Claims 73-75, drawn to a method of detecting activated $CD4^+$ T-cells in sample, classified in Class 435, subclass 7.1.

Group III: Claims 76-77, drawn to a method of detecting activated $CD4^+$ T-cells in patient, classified in Class 424, subclass 9.1.

Upon the election of Group I of the preceding Groups, the Examiner further required restriction to a single species of an antibody which either inhibits activation of $CD4^+$ T cells or stimulates activation of $CD4^+$ T-cells. However, this species election appears to be applicable only to claims 26 and 27 of Group I. As these claims have been cancelled, Applicants believe the species election is moot.

Applicants respectfully traverse the restriction requirement and provisionally elect the subject matter of Group I, presented in claims 26, 27, 31, 33, 35, and 59-72, drawn to monoclonal antibody, immunotoxin comprising antibody, humanized antibody and cells of hybridoma. However, Applicants submit that the Patent Office has not proven that the search and examination of the entire application would impose an undue burden. Applicants submit that the complete examination would be handled most expeditiously by treating all of the pending claims as a single entity. As MPEP § 803 directs, "[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions." Applicants respectfully submit that the Examiner has not shown that a search and examination of the entire application would cause a serious burden. Rather, a serious burden would arise if the application were restricted.

Applicants contend that no serious burden is created for the Examiner by running a simultaneous search on the methods disclosed in Groups II and III. Claims 73-77 are directed to

methods of detecting activated $CD4^+$ T-cells and a search in the art for *in vivo* methods, *i.e.,* in a patient, would yield results from a search for *in vitro* methods, *i.e.,* in a sample, without any undue burden on the Examiner. Therefore, Applicants strongly disagree with the restriction requirement imposed by the Examiner with respect to these groups. However, in the event that the Examiner maintains the restriction requirement, Applicants respectfully request reconsideration and rejoining of the subject matter of these groups upon an indication of allowable subject matter in the application.

Furthermore, the Examiner has not shown that searching the antibodies of Group I and the methods of Group II and III together would create a serious burden. The antibodies of Group I are related to and used with the methods of Groups II and III. Hence, a search of the relevant literature for Group I would yield results related to the methods of Groups II and III without any undue burden on the Examiner.

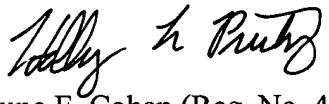
In addition, the Examiner has imposed a sequence election requirement applicable to Group I because each species is "mutually exclusive in that they reach opposing endpoints" and the examination of each species "would require different searches in the scientific literature". Office Action at page 3. Applicants respectfully traverse the election of species requirement. However, in order to facilitate prosecution, Applicants have cancelled claims 26 and 27.

Based upon the foregoing, Applicants submit that the restriction requirement is improper and therefore must be withdrawn. In order to facilitate prosecution, however, Applicants have provisionally elected, with traverse, the subject matter of Group I (claims 31, 33, 35, and 59-72).

Should the Examiner have any questions regarding this application, the Examiner is invited to telephone the undersigned at the number provided.

Applicants do not believe that any fees or extensions of time under 37 C.F.R. 1.136 are required in conjunction with this submission other than those set forth in the accompanying letter. However, in the event that extensions of time are necessary to prevent the abandonment of this patent application then such extensions of time are hereby petitioned. The U.S. Patent and Trademark Office is hereby authorized to charge any fees that may be required in conjunction with this submission to Deposit Account Number 50-1824, referencing matter number 16524.010.

Respectfully submitted,



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